

IDAPA 18 - DEPARTMENT OF INSURANCE

18.01.28 - GOVERNMENTAL SELF-FUNDED EMPLOYEE HEALTH CARE PLANS

DOCKET NO. 18-0128-0601 (NEW CHAPTER)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2006.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 41-211, Idaho Code, and Chapter 41, Title 41, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 2006.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rulemaking is necessary to implement House Bill 825, which created requirements for registering, funding and operating self-funded health plans offered by public entities and created through joint powers agreements.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: Compliance with deadlines in amendments to governing law.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: The rule does not impose a fee.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: No fiscal impact.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule is needed to implement changes to governing law (HB 825) that became effective July 1, 2006.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Georgia Hill (208) 334-4314.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 25, 2006.

DATED this 23rd day of August, 2006.

Shad Priest, Acting Director
Idaho Department of Insurance
700 West State St, 3rd Floor
Boise, Idaho 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0128-0601

IDAPA 18
TITLE 01
CHAPTER 28

18.01.28 - GOVERNMENTAL SELF-FUNDED EMPLOYEE HEALTH CARE PLANS RULE

000. LEGAL AUTHORITY.

This rule is promulgated and adopted pursuant to the authority vested in the director under Title 41, Chapter 2, Idaho Code. (7-1-06)T

001. TITLE AND SCOPE.

01. Title. This rule shall be cited in full as Idaho Department of Insurance Rule, IDAPA 18.01.28, "Governmental Self-Funded Employee Health Care Plans Rule." (7-1-06)T

02. Scope. The purpose of this rule is to supplement the provisions of Title 41, Chapter 41, Idaho Code, Joint Public Agency Self-Funded Health Care Plans by providing: (7-1-06)T

- a. Dates of application for registration; (7-1-06)T
- b. Requirements for application for registration; (7-1-06)T
- c. Rules regarding investigation of applications; (7-1-06)T
- d. Definition of required liabilities; and establishment of reserve bases; and (7-1-06)T
- e. To provide an effective date. (7-1-06)T

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements which pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. These documents will be available for public inspection and copying in accordance with the public records act. (7-1-06)T

003. ADMINISTRATIVE APPEALS.

All administrative appeals shall be governed by Chapter 2, Title 41, Idaho Code, and the Idaho Administrative Procedure Act, Title 67, chapter 52, Idaho Code, and IDAPA 04.11.01, Idaho Rules of Administrative Procedure of the Attorney General, Sections 100 through 400. (7-1-06)T

004. INCORPORATION BY REFERENCE.

There are no documents to be incorporated by reference (7-1-06)T

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS, STREET ADDRESS AND WEB SITE.

01. Office Hours. The Department of Insurance is open from 8 a.m. to 5 p.m. except Saturday, Sunday and legal holidays. (7-1-06)T

02. Mailing Address. The department's mailing address is: Idaho Department of Insurance, P.O. Box 83720, Boise, ID 83720-0043. (7-1-06)T

03. Street Address. The principal place of business is 700 West State Street, 3rd Floor, Boise, Idaho 83702-0043. (7-1-06)T

04. Web Site Address. The department's web address is <http://www.doi.idaho.gov>. (7-1-06)T

006. PUBLIC RECORDS ACT COMPLIANCE.

Any records associated with these rules are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. (7-1-06)T

007. -- 009. (RESERVED).

010. DEFINITIONS.

All terms defined in Title 41, Chapter 41, Idaho Code, which are used in this rule shall have the same meaning as used in that Chapter. (7-1-06)T

011. -- 020. (RESERVED).

021. QUALIFICATION OF PLAN.

In order for a plan to qualify under Title 41, Chapter 41, Idaho Code, the plan's trust must be established by agreement between the public agency employers or joint powers entity and the trustee of the trust, for the sole purpose of providing health care benefits to employees of the public agency employer or employers. (7-1-06)T

022. REGISTRATION.

01. Registration Required. No self-funded plan, unless exempted from registration by Section 41-4103, Idaho Code, shall be organized and permitted to operate in the state of Idaho without securing a certificate of registration from the director of insurance. (7-1-06)T

02. Beneficiary Within State. Registration is required of plans that cover any beneficiary working or residing within this state, unless the plans are otherwise exempted by Section 41-4103, Idaho Code. (7-1-06)T

023. APPLICATION FOR REGISTRATION.

01. Application. The application must include each of the requirements set out in Section 41-4105, Idaho Code. The projected income and disbursement statement referenced in Section 41-4105(2)(d), Idaho Code, must be certified by an actuary meeting the qualifications of Section 41-4105(2)(d), Idaho Code, and accompanied by a description of assumptions used in projecting income and disbursements together with bases used to estimate amounts reserved for claims. (7-1-06)T

02. Joint Powers Agreement. The joint powers agreement must comply with Title 41, Chapter 41 and, to the extent not in conflict with Title 41, the joint powers agreement must also comply with Title 67, Chapter 23, Idaho Code. The joint powers agreement must contain, at a minimum, the conditions set forth in Section 41-4104, Idaho Code. (7-1-06)T

03. Trust Agreement. (7-1-06)T

a. The trust agreement must comply with Title 41, Chapter 41, Idaho Code and, to the extent not in conflict with Title 41, the trust agreement must also comply with Title 68, Idaho Code, and Title 15, Chapter 7, Idaho Code. The trust agreement must contain, at a minimum, the conditions set forth in Section 41-4104, Idaho Code. (7-1-06)T

b. The term irrevocable as used in Section 41-4104(1), Idaho Code, means that the plan sponsor cannot retain a power to alter, amend, revoke or terminate the transfer in trust. The trustee may, pursuant to the terms of the trust agreement, amend the terms of the trust agreement for the purpose of complying with applicable law. (7-1-06)T

04. Biographical Affidavit. The application must be accompanied by a biographical affidavit for each trustee on a form acceptable to director. (7-1-06)T

024. INVESTIGATION OF PROPOSED APPLICATION FOR REGISTRATION.

The director may make an investigation of matters accompanying the application for registration as deemed necessary including an examination specified in Section 41-4113, Idaho Code. (7-1-06)T

025. CONTRIBUTIONS RECEIVABLE.

The trust fund may take credit in any financial statement for contributions receivable which are not in excess of ninety (90) days past due. (7-1-06)T

026. TRUST FUND RESERVES.

01. Reserve Requirements. (7-1-06)T

a. The trust fund of a self-funded plan in existence as of July 1, 2006 has three (3) years from July 1, 2006 to fully fund all actuarially required reserves. The trust fund must show progress towards coming in compliance with this requirement by a minimum twenty percent (20%) increase in funded reserves at the end of the first year from the effective date and a minimum of forty percent (40%) increase by the end of the second year from the effective date. At the end of the third year of the effective date and thereafter, the plan must continuously maintain reserves sufficient to fully fund payment of all benefits in effect at the time a claim thereunder arises. This reserve must adequately provide for all reasonably estimated future claim payments, adjustment expenses, and litigation expenses on claims which have arisen, including claims incurred but not reported, extended benefits and maternity benefits, if any. (7-1-06)T

b. The trust fund of a plan not in existence as of July 1, 2006, must continuously maintain reserves, pursuant to Section 41-4110, Idaho Code, from inception of the plan, that are sufficient to fully fund payment of all benefits at the time a claim thereunder arises. This reserve must adequately provide for all reasonably estimated future claim payments, adjustment expenses, and litigation expenses on claims which have arisen, including claims incurred but not reported, extended benefits and maternity benefits, if any. (7-1-06)T

02. Reserves for Disability Income Benefits. Reserves established for disability income benefits shall be in an amount not less than reserves determined by the Minimum Reserve Standards for Group Health Insurance Contracts set forth in the NAIC's Accounting Practices and Procedures Manual as adopted by the director, unless it can be proven to the satisfaction of the director that a lower reserve can be actuarially justified. (7-1-06)T

03. Certification by Actuary. Reserves must be certified annually by an actuary who meets the requirements of Section 41-4105(2)(d), Idaho Code, and such certification must be accompanied by a statement describing bases used in reserve determination. The certification shall be in a form acceptable to the director. (7-1-06)T

04. Insolvent Condition. (7-1-06)T

a. For a self-funded plan in existence as of July 1, 2006, three (3) years after the effective date of Chapter 41, if the determination of reserves reveals an insolvent condition, the director may, in his discretion, allow the plan a period of time not exceeding ninety (90) days to accumulate required reserves. (7-1-06)T

b. For plans formed after July 1, 2006, if the determination of reserves reveals an insolvent condition, the director may, in his discretion, allow the plan a period of time not exceeding ninety (90) days to accumulate required reserves. (7-1-06)T

05. Insolvency. Insolvency means that the plan is unable to pay its obligations when they are due, or when its admitted assets do not exceed its liabilities, including required reserves. (7-1-06)T

027. BONDING.

01. Certified Copy of Bond. A certified copy of the fidelity bond or equivalent coverage, as required

under Section 41-4114(3), Idaho Code, shall be furnished to the director by the plan.

(7-1-06)T

02. Cancellation of Bond Requirements. The bond must contain language stating that it is noncancellable except upon not less than thirty (30) days advance notice in writing to the trustee and the director. A copy of any notice cancelling a bond required under Chapter 41 is to be forwarded to the director by the surety at the same time it is forwarded to the trustee.

(7-1-06)T

028. ANNUAL STATEMENT.

The trustee shall file an annual statement within ninety (90) days after the close of each fiscal year of the plan and at such other time as may be determined by the director. A quarterly statement shall be filed with the director within sixty (60) days of the end of each quarter in a form acceptable to the director.

(7-1-06)T

029. SEVERABILITY CLAUSE.

If any provision of this rule, or the application thereof to any person or circumstance, is held invalid, the remainder of the rule, or the applicability of such provision to other persons or circumstances, shall not be affected thereby.

(7-1-06)T

030. -- 999. (RESERVED).